

Message Text

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ACTION ARA-10

INFO OCT-01 IO-10 ISO-00 PM-03 L-02 SAM-01 NSC-05 CIAE-00

DODE-00 INR-07 NSAE-00 PA-01 USIA-06 PRS-01 SP-02

/049 W

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R 122102Z MAY 75

FM EMBASSY SANTIAGO

TO SECSTATE WASHDC 3244

INFO USMISSION USUN NEW YORK

USMISSION GENEVA

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EO 11652: N/A

TAGS: PINS, SHUM, CI

SUBJECT: DETAINEE RELEASE PROGRAM: EXILE FOR THOSE CONVICTED
BY MILITARY TRIBUNALS

REF: A) SANTIAGO 646 B) SANTIAGO 5561, 9-11-74

1. SUMMARY: LONG-AWAITED DECREE ESTABLISHING PROCEDURES FOR
COMMUTING JAIL SENTENCES OF THOSE CONVICTED BY MILITARY TRIBU-
NALS TO FOREIGN EXILE WAS ISSUED MAY 10. PREVIOUS DAY ICEM
SIGNED AGREEMENT WITH GOC PROVIDING FOR SPECIFIC ICEM ROLE IN
THIS PROGRAM. BUREAUCRATIC MACHINERY ESTABLISHED BY DECREE IS
CUMBERSOME. UNLESS SOME PRISONERS ARE RELEASED TO REMAIN IN
CHILE, RESULT MAY BE RELEASE OF ONLY A TRICKLE OF PERSONS OVER
A LONG PERIOD, THEREBY ATTENUATING PROPAGANDA VALUE FOR GOC.
END SUMMARY.

2. DECREE 504 IN MINISTRY OF JUSTICE SERIES, DATED APRIL 30,
WAS PUBLISHED IN DIARIO OFICIAL MAY 10. PREAMBLE REFERENCES
ARTICLE 10 OF DECREE LAW 527 (JURIDICAL STATUTE OF THE JUNTA -
SANTIAGO 3746, JUNE 26, 1974) WHICH DELINEATES POWERS OF
PRESIDENT, INCLUDING ISSUANCE OF PARDONS. PREAMBLE THEN CITES
DESIRABILITY OF ESTABLISHING NORMS FOR PROCESSING REQUESTS

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FROM PERSONS SENTENCED BY MILITARY TRIBUNALS (INCLUDING HOUSE

ARREST) WHO, "TAKING ADVANTAGE OF THE PREROGATIVES INVESTED IN THE PRESIDENT OF THE REPUBLIC," SEEK FOREIGN EXILE.

3. DECREE SPECIFIES IN CONSIDERABLE DETAIL HOW SUCH REQUESTS SHOULD BE PREPARED, WHAT ADDITIONAL DOCUMENTS SHOULD BE ATTACHED, AND WHICH GOVERNMENT OFFICIALS SHOULD RECEIVE THEM. ROLE FOR INTERNATIONAL AND DOMESTIC RELIEF AGENCIES IS SPECIFICALLY PROVIDED FOR. PETITION WILL THEN BE CONSIDERED BY THREE-MAN COMMITTEE COMPOSED OF REPS FROM MINISTRIES OF INTERIOR, DEFENSE AND JUSTICE AND CHAIRED BY LATTER; ALL REPS AND ALTERNATES MUST BE LAWYERS. COMMITTEE MUST MEET AT LEAST ONCE A WEEK; DECISIONS ARE BY MAJORITY OF VOTES IF THERE IS NO UNANIMITY. COMMITTEE IS EMPOWERED TO OBTAIN ANY ADDITIONAL INFORMATION ON A PETITIONER FROM OTHER GOVT AGENCIES. COMMITTEE WILL DECIDE TO ACCEPT OR REJECT PETITION; IT MAY ALSO RECOMMEND A REDUCTION IN SENTENCE.

4. COMMITTEE'S RECOMMENDATION THEN IS FORWARDED TO MINISTER OF JUSTICE WHO THEN PASSES IT, ALONG WITH HIS OWN COMMENT, TO MINISTER OF INTERIOR, WHO THEN SENDS IT TO THE PRESIDENT. IF COMMUTATION OF SENTENCE TO EXILE IS AGREED TO, A DECREE WILL BE ISSUED BEARING SIGNATURE OF PRESIDENT AND MINISTERS OF INTERIOR AND JUSTICE.

5. "IN CERTAIN CASES" (CASOS CALIFICADOS), PRESIDENT MAY DISPENSE WITH ABOVE PROCEDURES, IN WHICH CASE HE MUST EXPLAIN HIS REASONS IN RESULTING DECREE.

6. ONCE DECREE IS SIGNED COMMUTING SENTENCE TO EXILE, IT GOES TO INTERIOR MINISTRY WHICH THEN TAKES NECESSARY STEPS SO THAT PETITIONER LEAVES CHILE ASAP. FAMILY MEMBERS, PETITIONER'S LAWYER, AND DOMESTIC AND INTERNATIONAL AGENCIES INTERESTED IN CASE MUST PROVIDE ANY INFORMATION ON CASE NEEDED BY THE MINISTRY AND OBTAIN PLANE TICKETS AND ANY NECESSARY VISAS. IF PETITIONER OR HIS FAMILY HAS INSUFFICIENT FUNDS FOR TRIP, AND RELIEF AGENCIES DO NOT PROVIDE THEM, THEN INTERIOR MINISTRY "WILL TAKE STEPS LEADING TO THE PERSON'S DEPARTURE FROM THE COUNTRY." (COMMENT: THIS COULD MEAN USE OF GOC FUNDS. END COMMENT.) WHILE THESE PROCEDURAL STEPS ARE BEING TAKEN, PRISONER WILL BE MOVED TO A PRISON FACILITY AS CLOSE AS POSSIBLE TO THE LIMITED OFFICIAL USE

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POINT OF DEPARTURE (SANTIAGO, IN MOST CASES); A SPECIAL SECTION OF THIS PRISON FACILITY WILL BE ESTABLISHED FOR "IN TRANSIT PARDONEES" (INDULTADOS EN TRANSITO). FINALLY, WHEN ALL ABOVE STEPS ARE COMPLETED, PRISONER WILL BE TAKEN DIRECTLY TO THE EXIT POINT UNDER POLICE GUARD.

7. DECREE 504 IS SIGNED BY PINOCHET AND MINISTERS OF JUSTICE AND INTERIOR, BUT NOT OTHER THREE JUNTA MEMBERS.

8. MEANWHILE, ON MAY 9, ONE DAY PRIOR TO PBULICATION OF DECREE 504, LOCAL REP OF ICEM ROBERTO KOZAK SIGNED AGREEMENT WITH ACTING FONMIN GENERAL HERNAN BRADY PROVIDING FOR SPECIFIC ICEM ROLE IN RELOCATION OF PERSONS SENTNCD BY MILITARY TRIBUNALS OR RPT OR CIVIL COURTS UNDER INTERNAL SECURITY LAW WHO NOW SEEK EXILE. ICEM WILL APPROACH OTHER GOVERNMENTS TO SEEK ACCEPTANCE OF SUCH PERSONS FOR RESIDENCE, AND WILL ALSO ASSIST IN MEETING TRAVEL EXPENSES. AGREEMENT STATES THAT "OTHER AGENCIES" WILL ALSO BE ASKED TO HELP IN THIS PROGRAM; IN REMARKS AFTER SIGNING CEREMONY, KOZAK STATED THAT ICRC WILL VERIFY DESIRE OF PRISONERS TO LEAVE COUNTRY.

9. COMMENT: A DECREE COMMUTING PRISON SENTENCES FOR "POLITICAL PRISONERS" INTO EXILE HAS BEEN IN THE WORKS FOR MONTHS (REF A). IT WILL BE RECALLED THAT IN HIS SEPTEMBER 11, 1974 SPEECH IN WHICH HE ANNOUNCED A DETAINEE RELEASE PROGRAM (REF B), PRESIDENT PINOCHET ALSO STATED THAT, AFTER THOSE DETAINEES HELD WITHOUT CHARGE UNDER STATE OF SIEGE REGULATIONS HAD BEEN PLACED OVER-SEAS, THERE WOULD THEN BE A "SECOND PHASE" INVOLVING PERSONS ALREADY CONVICTED BY MILITARY TRIBUNALS AND PRESENTLY SERVING THEIR SENTENCES. SUBSEQUENTLY, IN THE FACE OF PROLONGED DELAYS IN RELEASE/EXILE OF STATE OF SIEGE DETAINEES AND DEMANDS BY FOREIGN GOVERNMENTS FOR AN OVERALL LIST OF PERSONS TO BE EXILED, GOC DECIDED TO BEGIN PHASE TWO EVEN THOUGH PHASE ONE WAS NOT YET COMPLETED. DECREE 504 IS FIRST TANGIBLE RESULT.

10. IT STRIKES US THAT BUREAUCRATIC MACHINERY ESTABLISHED BY THIS DECREE IS COMPLEX AND CUMBERSOME, GIVING RISE TO NUMEROUS POSSIBILITIES FOR DELAY IN ACTUAL EXILE OF PRISONERS. THUS, OUR INITIAL EXPECTATION IS THAT, AS IN PHASE ONE, THERE WILL BE ONLY A TRICKLE OF PERSONS RELEASED OVER A LONG PERIOD RATHER THAN LARGE NUMBERS IN A SHORT TIME. SHOULD THIS PROVE LIMITED OFFICIAL USE

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TO BE SO, IMPACT THE PROGRAM COULD HAVE IN IMPROVING GOC'S HUMAN RIGHTS IMAGE WILL BE GREATLY ATTENUATED.

11. THESE NEW STEPS IN GOC'S DETAINEE RELEASE PROGRAM SHOULD BE VIEWED IN CONTEXT OF GOC'S STATED INTENTION, THROUGH CHILEAN EMBASSY BONN, TO RELEASE INTERNAL SECURITY PRISONERS ALREADY SENTENCED AS WELL AS THOSE HELD WITHOUT CHARGES UNDER STATE OF SIEGE PROVISIONS (BONN 05836). WHILE DECREE 504 LOOKS TOWARD DOING THIS, GOC IS UNDER MISAPPREHENSION IF IT BELIEVES THAT SIMPLY EXILING SUBSTANTIAL NUMBER OF ITS CITIZENS WILL BE REGARDED AS A MAJOR HUMAN RIGHTS ADVANCE.

12. CHILEAN EMBASSY BONN LETTER FURTHER STATED THAT PRISONERS NOT RESETTLED ABROAD COULD BE RELEASED AND REMAIN IN CHILE. NOTHING MORE HAS BEEN HEARD OF THIS LATTER PROVISION. WE SHALL

TRY TO DETERMINE WHETHER GOC INTENDS TO FOLLOW THROUGH ON IT.
WITHOUT SUCH AN ARRANGEMENT, IN VIEW OF RELUCTANCE OF OTHER
GOVERNMENTS TO ACCEPT CHILEAN EXILES, GOC WILL HAVE TO CONTINUE
TO HOLD SOME THOUSANDS OF POLITICAL PRISONERS -- SOMETHING
CHILEANS SAY THEY ARE RELUCTANT TO DO.

13. POUCHING COPY OF DECREE TO ARA/BC.
POPPER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW, POLITICAL PRISONERS, PRISONERS RELEASE, EXILES
Control Number: n/a
Copy: SINGLE
Draft Date: 12 MAY 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ellisoob
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975SANTIA03247
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750167-0669
From: SANTIAGO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750560/aaaaccwu.tel
Line Count: 177
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 SANTIAGO 646, 75 SANTIAGO 5561, 75 9-11-74
Review Action: RELEASED, APPROVED
Review Authority: ellisoob
Review Comment: n/a
Review Content Flags:
Review Date: 29 MAY 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <29 MAY 2003 by BoyleJA>; APPROVED <08 OCT 2003 by ellisoob>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: DETAINEE RELEASE PROGRAM: EXILE FOR THOSE CONVICTED BY MILITARY TRIBUNALS
TAGS: PINS, SHUM, CI
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006